

S/N 09/917,890

Response to Office Action Dated 01/11/2006

REMARKS

The Office Action dated 09/21/2005 requires Applicant to elect one of three groups of claims, i.e., Groups I, II and III, wherein Group I comprises claims 1—18, Group II comprises claims 19—31 and 41—57 and Group III comprises 32—
5 40.

A telephone call to Examiner Adam Queler resulted in claims 25—31 being put into Group II. The Applicant appreciates the Examiner's prompt return phone call and willingness to resolve this simple issue by telephone.

The Applicant hereby elects Group II, which includes claims 19—57.
10 However, this election is made with traverse for the following reasons.

M.P.E.P. § 803 states that an application may be properly restricted only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner if restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a requirement should not be made
15 unless there is an undue burden on the Examiner to examine all of the claims in a single application.

It would seem that the searches involved for both claim groups would substantially overlap. In a primary example of the overlap associated with the search for Groups I and II, consider the base claim of Group I, i.e. claim 1.

20 The first paragraph of claim 1 recites, "receiving at least one image from a web site". The search for these elements will substantially overlap with that of a search for claim 20 (of Group II), wherein paragraph 1 of claim 20 recites "receiving said at least one image from said remote device".

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The second and fourth paragraphs of claim 1 recite, "receiving a fee arrangement for said at least one image" and "requesting payment of a fee based on said fee arrangement". The search associated with these paragraphs will substantially overlap with the search for claims 56 and 57 (in Group II), which
5 also recite aspects of receiving payment.

The third paragraph of claim 1 recites, "incorporating said at least one image in a document", while the second paragraph of claim 26 (in Group II) recites in part, "incorporating said at least one image in said document based on said attributes". Therefore, the search associated with these paragraphs will
10 substantially overlap.

Other instances of search overlap are numerous. For instance, the first paragraph of claim 2 (in Group I) recites "receiving a user selection of said image from said web site", while the second paragraph of claim 19 (in Group II) recites "receiving a user-selection of said at least one image included in said list of
15 images". Thus, the search will overlap in the area of 'receiving a user selection'. In a second instance, the second paragraph in claim 4 (in Group I) recites "storing said image basket", while the first paragraph of claim 19 (in Group II) recites, in part, "storing a list of images". Thus, the search will overlap in the area of storing. In a third instance, paragraph 4 of claim 1 (Group I) recites "requesting payment
20 of a fee based on said fee arrangement", while claim 57 (Group II) recites in part "wherein said at least one server is operable to transmit said document to said user device in response to receiving said payment". Thus, the search will overlap in the area of fees and payments.

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These are merely examples where the search for features recited in the Group I claims would appear to overlap with the search for the features recited in the Group II claims. Because of the apparent overlap in search, a serious burden would not be imposed on the Patent Office to examine all of the claims in a single application; therefore, restriction is improper.

Accordingly, because the added burden of searching elements of claims 1—18 and 32—40 does not seem overly burdensome, the Applicant requests removal of the Restriction Requirement and examination of all of the claims, i.e., claims 1—57.

The Examiner is urged to contact the undersigned if any issues remain unresolved by this Response.

Respectfully Submitted,

Dated: 2-2-06By: 

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